

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES DALE ARNOLD,

Plaintiff,

v.

ZACHARY JACOBSON, et al.,

Defendants.

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No. 4:17-cv-2250-SNLJ

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff, a prisoner, commenced this civil action on August 14, 2017, and filed a motion for leave to proceed in forma pauperis. The Court granted the motion and conducted initial review, and determined that the complaint failed to state a claim for relief against any of the named defendants. In an Order dated November 14, 2017, the Court fully explained why the complaint was subject to dismissal, and gave plaintiff an opportunity to submit an amended complaint. The Court cautioned plaintiff that his failure to timely file an amended complaint would result in the dismissal of his case without further notice.

Plaintiff's response was due on December 5, 2017. However, on December 7, 2017, plaintiff notified the Court of a change in his address, and the November 14, 2017 Order was re-sent to plaintiff at his new address. In addition, the Court sua sponte gave plaintiff additional time to comply with the November 14, 2017 Order.

Plaintiff's response to the Court was due on January 19, 2017. To date, however, he has neither filed an amended complaint nor sought additional time to do so. Plaintiff was given meaningful notice of what was expected, and cautioned that his case would be dismissed if he failed to timely comply with the Court's Order. Therefore, this action will be dismissed, without


prejudice, due to plaintiff's failure to prosecute his case and his failure to comply with this Court's November 14, 2017 Order. Fed. R. Civ. P. 41(b); *see also Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (*per curiam*) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so); *Fitzwater v. Ray*, 352 F. App'x 125, 126 (8th Cir. 2009) (*per curiam*) (district court did not abuse its discretion in dismissing action without prejudice when the *pro se* plaintiffs failed to comply with an order "directing them to file within fourteen days an amended complaint in conformity with Rule 8"); *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 1st day of February, 2018.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE